



U.S. Department
of Transportation

**Federal Railroad
Administration**

Memorandum

Date: February 3, 2004

Reply to Attn of: OP-04-14

Subject: Technical Resolution Committee: Engineer Certification - Definition
of Main Track; Designated Supervisors of Locomotive Engineers (DSLEs)

Original Signed By:

From: Edward W. Pritchard
Director, Office of Safety Assurance and Compliance

To: Regional Administrators

Attached herewith is FRA's interpretations on locomotive engineer qualification issued as OP Technical Bulletin OP-04-14. These interpretations are a direct outcome of the first Operating Practices Technical Resolution Committee (TRC) meeting in December 1994.

This Technical Bulletin is also issued simultaneously as OP Safety Advisory (OPSA 96-02) which is being distributed to our rail industry customers through the Association of American Railroads, the United Transportation Union, the Brotherhood of Locomotive Engineers (including the American Train Dispatcher's Department), and the American Short Line and Regional Railroad Association.

Regional OP Specialists have the responsibility for ensuring OP Inspectors are familiar with this technical bulletin. Regional personnel may distribute copies of this Technical Bulletins to local railroad managers and labor representatives.

Federal Railroad Administration
Technical Bulletin OP-04-14 and OP Safety Advisory (OPSA-96-02)

49 CFR Part 240
Qualifications for Locomotive Engineers

On May 10, 1993, an Interim Final Rule was issued substantially amending 49 CFR Part 240. Since that time, railroads, railroad labor organizations, individual railroad employees and a variety of others have requested clarification and guidance from the Federal Railroad Administration (FRA) regarding the intent and application of several provisions of the regulation. The Operating Practices Technical Resolution Committee has reviewed the matters in question and has formulated this Technical Bulletin to provide the requested guidance.

Definition of Main Track

The Interim Final Rule adds the following definition of Main Track at 240.7:

“Main track means a track upon which the operation of trains is governed by one or more of the following methods of operation: timetable; mandatory directive; signal indication; or any form of absolute or manual block system.”

Questions have been raised regarding the term “mandatory directive” and its decertification implications under 240.117 (e) (4).

Policy: This term is used in Part 240 as it has historically been used in Part 220: “authority for the conduct of a railroad operation.” It includes all situations where a segment of main track is occupied without permission or authority in accordance with the railroads’ operating rules. It does not include occupying a segment of track contrary to advisory information, such as that from a yardmaster relative to which track to use in a yard.

Designated Supervisors of Locomotive Engineers

Numerous inquiries have been made regarding the use of outside contractors for certification purposes and for the temporary use of third party engineers, such as during a work stoppage. The use of service continuation engineers during a recent major labor dispute has raised many questions.

Policy: Section 5 of Appendix B in the regulations makes provisions for training companies to exist, and for railroads to use those companies. Actual certification must be done by the railroad. Use of an outside contractor and how that contractor will be used must be described in the railroad’s plan submission.

Contractors who offer railroads temporary engineers, much like a “temp agency” offers temporary employees in other fields of work, are certainly an acceptable business under Part 240.

The problems raised by outside contractors involve the fact that only a railroad can qualify a locomotive engineer under Part 240. However, a contractor can be useful to a railroad by offering persons with experience, testing those persons for knowledge of certain required criteria, and completing some of the required background checks. For example, a contractor may check prior safety conduct as a motor vehicle operator, operating rules compliance data, and data on substance abuse disorders and alcohol/drug rules compliance. In addition, contractors may ensure compliance with the criteria for vision and hearing acuity, initial and continuing education, testing knowledge, examining skill performance, and monitoring operational performance. Railroads must continue to meet the maintenance records requirements imposed by the regulation. While railroads are free to contract with these contractors, the railroads remain liable for compliance with the regulation.

One or more of these temporary engineers employed by the certification service could be certified by multiple railroads and carry multiple certificates. Each certificate would have to be issued by the railroad, not by the contractor, a non-railroad entity. For each certificate to remain valid, the certificate holder would have to remain current on the issuing railroad, i.e., by an annual check ride and operational test.

Under ordinary circumstances, a railroad would require a minimum of two certified locomotive engineers. Each locomotive engineer could be utilized to perform monitoring and check rides on the other. However, by using a contractor, a shortline could achieve compliance without employing two certified locomotive engineers. For example, a shortline railroad with one certified engineer could contract to a certification service. The certification service could conduct all of the tests and checks for the railroad’s engineer as well as for the certification service’s employee. The certification service’s employee could conduct the required annual check ride for the railroad’s engineer as long as the railroad’s engineer did the same for the certification service employee. Railroads must continue to meet the maintenance records requirements imposed by the regulation.

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